

**DEPARTMENT OF ENVIRONMENT AND PLANNING  
DIVISION OF SEWERAGE MANAGEMENT  
ERIE COUNTY SEWER DISTRICT NO. 6**



**RULES AND REGULATIONS  
FOR  
ERIE COUNTY SEWER DISTRICT NO. 6  
STORM SEWERS**

**Authorized pursuant to Article 5-A, County Law**

**ADOPTED DECEMBER 12, 2002**

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## **INTRODUCTION**

Erie County Sewer District No. 6 was created under authorization of Chapter 110 of the Laws of the State of New York of 1983 to operate and maintain the existing sanitary and Storm Sewer Systems in the City of Lackawanna. These regulations are promulgated under Section 264 of 5-A, County Law for County owned Storm Sewers.

Where there is inadequate downstream capacity, the effect of increased Surface Runoff from Developments must be minimized. In order to achieve this, measures to reduce flooding or environmental degradation through such measures as detention or treatment of Stormwater may be necessary. Ideally the quantity of Surface Runoff that reaches the Storm Sewer System during and after Development should not be altered from Pre-Development conditions unless additional Storm Sewer capacity is provided. A variety of structural and non-structural measures may be required to control and alleviate the adverse impacts of increased Surface Runoff.

These Rules and Regulations are for the purpose of securing optimum performance from the Storm Sewer System and to insure compliance with all applicable Federal, State and Local Laws.

## **ARTICLE I - DEFINITIONS**

- 1.01 Board - shall mean the Board of Managers of Erie County District No. 6.
- 1.02 Detention Pond - shall mean a basin, tank, pipe or any other structure designed to temporarily store Stormwater.
- 1.03 District - shall mean Erie County Sewer District No. 6 and its employees.
- 1.04 Development - shall mean any man-made change to improved or unimproved Premises, such as, but not limited to, Subdivision, Open Development, mobile home park, industrial park, building or other structure, paving, or the excavation, filling, sloping, grading or mounding of earth, installing clay or other impervious surfaces, vegetation removal or covering of the ground surface.
- 1.05 ENCRPB – “Storm Drainage Design Manual” - shall mean the Storm Drainage Design Manual originally published by the Erie and Niagara Counties Regional Planning Board, July 1972, Amended October 1, 1981 and available from the Erie County Department of Environment and Planning.
- 1.06 Groundwater - shall mean all subsurface water, including but not limited to the vadose zone.
- 1.07 Industrial Waste - shall mean any liquid, gas, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources, which may cause or might reasonably be expected to cause pollution.
- 1.08 NYSDEC - shall mean the New York State Department of Environmental Conservation.

- 1.09 Open Development - shall mean any Development wherein the property is subdivided for sale, but which is not a Subdivision.
- 1.10 Other Wastes - shall mean garbage, refuse, decayed wood, sawduct, shavings bark, sand, lime, cinders, ashes, offal, manure, tar, dyestuffs, acids, chemicals, and all other discarded matter not Sewage or Industrial Waste which may cause or might reasonably be expected to cause pollution.
- 1.11 Peak Flow - shall mean the maximum instantaneous rate of flow of water.
- 1.12 Person(s) - shall mean any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever.
- 1.13 Premises - shall mean a real estate lot, plot or parcel of land including any building or structures thereon.
- 1.14 Public Storm Sewer - shall mean a Storm Sewer owned by the District.
- 1.15 Retention Pond - shall mean a basin, tank, pipe or any other structure designed to store Stormwater without release with the exception of infiltration or evaporation.
- 1.16 Rules and Regulations - shall mean these Storm Sewer Rules and Regulations for Erie County Sewer District No. 6 Storm Sewers
- 1.17 Sewage - shall mean the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such Groundwater infiltration and Surface Water as may be present. Wastewater or the admixture with Sewage of Industrial Wastes or Other Wastes as herein defined shall also be considered "Sewage".
- 1.18 Storm - Shall mean an atmospheric disturbance accompanied by precipitation.
- 1.19 Storm Duration - shall mean the length of time over which a Storm occurs.
- 1.20 Storm Frequency - shall mean the average frequency of occurrence of Storms having a given volume and duration, normally expressed in years.
- 1.21 Storm Sewer - shall mean a closed conduit designed to convey Stormwater.
- 1.22 Storm Sewer Construction Specifications for Erie County Sewer Districts - shall mean the standard list of materials, specifications and details of construction as approved by the Erie County Sewer Agency.
- 1.23 Storm Sewer System - shall mean the Storm Sewers, public and private, which drain or are intended to drain Stormwater.
- 1.24 Stormwater - shall mean Surface Runoff and shall include Uncontaminated Groundwater that enters a Storm Sewer, non-contact cooling water and water from fire fighting activities.

- 1.25 Subdivision - shall have the same meaning as such term is defined in section 17-1501 of the Environmental Conservation Law.
- 1.26 Surface Runoff - shall mean water which results when the rate of precipitation, including snowmelt, exceeds the rate at which water infiltrates into the earth's surface.
- 1.27 The Act - shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.
- 1.28 Uncontaminated Groundwater - shall mean Groundwater not containing Sewage, Industrial Wastes or Other wastes.
- 1.29 Use - Shall mean the connection to a Public Storm Sewer, either directly or indirectly, of any Storm Sewer or other Stormwater discharge.
- 1.30 USEPA - Shall mean the United States Environmental Protection Agency.
- 1.31 User - Shall mean an owner of property in the District or any other Person who contributes, causes or allows the contribution of water or Stormwater into the District's Storm Sewer System, either directly or indirectly, or who causes or allows the introduction of any substance into the Storm Sewer System.

## **ARTICLE II - STORM DRAINAGE REQUIREMENTS**

- 2.01 Drainage Facilities - Users at their own expense, shall provide adequate drainage facilities in conformance with these Rules and Regulations for property within the District being Developed and as otherwise required by these Rules and Regulations or as ordered by the District as a result of an enforcement hearing.
- 2.02 Obstruction Prohibited - It is a violation of these Rules and Regulations to restrict in any way or manner, the flow of Stormwater in a Public Storm Sewer except as permitted or approved pursuant to these Rules and Regulations or as the District determines necessary for Peak Flow control, sediment control, or to contain pollution spills or the accidental discharge of pollutants.
- 2.03 Use of District Storm Sewers - Where the District has a Public Storm Sewer accessible to a Premises, such Premises upon being Developed shall, at the time of Development, connect Storm Sewers or other drainage therefrom to the Public Storm Sewer. The District may specify the manner and point of connection and Peak Flow restrictions on such Storm Sewer or other drainage connections.

A Public Storm Sewer is accessible to the Premises if the Public Storm Sewer is located at an elevation relative to the Premises so as to allow all or part of Stormwater from the Premises to flow by gravity at the point of connection and such Public Storm Sewer either abuts the Premises or is located in an accessible right of way, within one hundred (100') feet for one or two family dwelling Premises being developed or improved, or within five hundred (500') feet for any other Premises being developed or improved.

Premises connecting to the District Storm Sewer System shall conform to these Rules and Regulations.

- 2.04 Warning and Disclaimer of Liability - The Storm drainage requirements of these Rules and Regulations are based on reasonable scientific and engineering considerations. Storms of less frequency and greater severity than the design Storm required in these Rules and Regulations can and will occur from time to time, resulting in Surface Runoff exceeding the design capacity of the Storm Sewer System. Storm Sewers pre-existing the District's formation may have been designed for less severe Storms having greater frequency and less duration than required by these Rules and Regulations, and for a variety of reasons, existing Storm Sewers may not be capable of conveying their design Peak Flows. These Rules and Regulations do not imply that premises or land within the District will be free from Flooding or Flood damages. These Rules and Regulations shall not create liability on the part of the District for any Flood damages that result from reliance on its provisions or any administrative decision lawfully made thereunder.

### **ARTICLE III - PERMITS**

- 3.01 Connections - No Person shall uncover, make any connection to, opening into, or Use, alter, relocate, create a blockage or restriction therein, cover any inlet structure, or disturb any Public Storm Sewer or any appurtenance thereto, without a valid permit issued by the District. Any connection to, or other work on, a District Storm Sewer shall only be made under District inspection with a valid written permit issued by the District.
- 3.02 Storm Sewer Extensions - Construction, installation or modification of Storm Sewers intended to be or actually connected to the District's Storm Sewer System, whether or not ownership is intended to be dedicated to the District, requires prior approval of the District and a valid permit issued by the District.
- 3.03 Permit Application Procedure - The property owner of a Premises or his agent shall make application for a permit on the form provided by the District at the District office. Additional information required by these Rules and Regulations shall also be supplied with the application.

If application is made by a property owner's agent, such agent must present written authorization from the property owner.

- 3.04 Information Required for a Permit
- a. For a new connection to, or relocation, alteration, Storm Water inlet installation or any other change to a Public Storm Sewer from or for a single one or two family Premises, the permit application shall include, along with the application form, a description and location map, drainage calculations and a detailed plan and profile of the connecting pipe or change. Such information provided shall be adequate and acceptable to the District.
  - b. For connection to the District's Storm Sewer System from or for any Premises other than a single one or two family Premises, the permit application shall include, along with the application, three (3) sets each of an engineer's report with a description, and Surface Runoff calculations pursuant to the ENCRPB "Storm Drainage Design Manual" or other calculation method as approved by the District, and engineering plans including a location

map and showing topographic features on the plan and profile(s). The engineer's report and engineering plans shall be signed and sealed by a New York State Licensed Professional Engineer, an Architect registered in New York State or a Licensed Land Surveyor holding the "N" exemption. The engineer's report shall include a downstream capacity analysis describing the manner in which capacity for the proposed connection(s) is or will be provided in the downstream Storm Sewer System. Such information provided shall be adequate and acceptable to the District.

- c. For Subdivisions, Open Developments, mobile home parks, industrial parks and any Development where property is subdivided or intended to be subdivided for sale, it is required to submit for prior approval, three (3) sets of a completed application form, an engineer's report with a description and Surface Water Runoff calculations pursuant to the ENCRPB "Storm Drainage Design Manual" or other calculation method as approved by the District, and engineering plans including a location map and showing topographical features on a plan and profiles of the proposed Storm Sewers, sanitary sewers, water lines and pavements, a topographical map of existing and proposed elevations and a Premises drainage and grading plan. The engineer's report shall include a downstream Storm Sewer capacity analysis describing the manner in which capacity for the proposed connection(s) is or will be provided in the downstream Storm Sewer System. The plans and engineer's report shall be signed and sealed by a New York State licensed professional engineer, a New York State registered architect or a licensed land surveyor holding the "N" exemption. A proposed map cover, if the plan is to be platted is also required. Such information provided shall be adequate and acceptable to the District.

- 3.05 Permit Issuance - A Permit is issued for a single Premises and is valid when signed by an authorized District representative. Permits are valid for six months from the date issued but may be renewed upon application by the permit holder subject to specific approval of the District, for each successive six month period.

A permit to connect to the District Storm Sewer System shall be subject to the availability of Peak Flow capacity in the District's Storm Sewer System. Permits may contain Peak Flow limits, conditions and specific performance requirements as determined by the District when issued or renewed. Issuance of a permit may be withheld on Premises in nonconformance to these Rules and Regulations, in arrears on property taxes or if in violation of any District requirements.

- 3.06 Permit Modifications - Permits may be modified by the District for cause subsequent to the date of issue. The modification shall become effective on the date ordered by the District. When modified, the User may petition for a hearing on the modification. The petition may include a request to forestall the effective date of the permit modification pending the outcome of the hearing. Such hearing shall follow the procedures of Article X of these Rules and Regulations as related to notice, representation and conduct. Cause for permit modification shall include, but not be limited to the following conditions:

- a. if USEPA or NYSDEC adds or amends Stormwater discharge regulations;
- b. if USEPA or NYSDEC require specific performance;
- c. if the Board determines it is necessary to correct a violation of these Rules and Regulations;

- d. if the use of the Premises changes;
- e. if the original design calculations significantly fail to reflect the actual percentages of pervious and impervious surfaces, slopes or other drainage characteristics of the premises;
- f. if the District determines that mitigation measures are necessary where the permitted activity or condition has caused flooding, pollution or damage to the Storm Sewer System;
- g. if the District determines that the installation of the permitted Storm Sewer or its connection to the Public Storm Sewer is other than as was approved by the District;
- h. if the District determines that imminent endangerment to Persons, property or the environment has or may result from the permitted activity or condition.

Modification of a permit shall not preclude the District from subsequently initiating action to revoke a permit pursuant to Section 9.07 of these Rules and Regulations.

- 3.07 Flow Measurement and Sampling - When requested by the District or when required pursuant to law, regulations or a permit, the real property owner of the Premises shall provide reasonable measurements of flows and sampling for pollutants at no cost to the District, and submit the results to the District.

#### **ARTICLE IV - STORM SEWER STANDARDS**

- 4.01 Drainage Facilities Requirements and Mitigation - All new Development, Storm Sewers, modifications to existing Storm Sewers, Detention Ponds, Retention Ponds and related facilities and appurtenances shall conform to the Storm Sewer Construction Specifications for Erie County Sewer District No. 6.

For new Development, Storm Sewers, modifications to existing Storm Sewers, Detention Pond, Retention Pond and related facilities and appurtenances proposed to be installed or connected to the District's Storm Sewer System or requiring a permit under these Rules and Regulations, the application, plans or sketches and engineer's report submitted shall provide sufficient information to demonstrate that adequate site and downstream Storm Sewer System capacity exists for a ten (10) year return Storm Frequency for all Storm Durations corresponding to the drainage basin characteristics. The ten (10) year return Storm Frequency and basin characteristics shall be determined in conformance with the ENCRPB's "Storm Drainage Design Manual".

Where adequate downstream capacity as measured by the ten (10) year return Storm Frequency and Storm Duration standard cannot be demonstrated to the satisfaction of the District, mitigation measures shall be proposed. The mitigation measures shall provide, either singularly or in combination, an increase in downstream Storm Sewer capacity equal to the design Storm Peak Flow or the design shall limit the Storm Peak Flow to conditions pre-existing the proposed Development. Where a needed increase in downstream Storm Sewer capacity is not provided, as determined by the District, the design Peak Flow of Stormwater

exiting the Premises shall be limited to the calculated Stormwater Peak Flow for pre-existing conditions.

Any proposed structural measure to limit the design Peak Flow of Stormwater to the pre-existing calculated Peak Flow of Stormwater, such as but not limited to a Detention Pond or a Retention Pond, shall remain privately owned by the owner of the premises and shall not become part of the Public Storm Sewer System.

Excess capacity for upstream premises including future Developments shall be provided for in sizing Storm Sewers.

Storm Sewers or Stormwater shall not discharge over or onto sidewalks, walkways, driving surfaces or in any manner that causes or can be reasonably expected to cause a hazard to pedestrians or vehicular traffic.

Erosion, sediment control and pollution prevention requirements shall be addressed in the permit application or the engineer's report. Erosion, sediment control and pollution prevention measures proposed shall be shown on detailed sketches, or on the engineering plans where engineering plans are required.

Where Storm Sewers are intended or required to be dedicated to the District, a permanent easement and title form, in a form acceptable to the District shall be provided prior to permit issuance.

- 4.02 Storm Sewers Associated With Subdivisions - In addition to the requirements in the preceding subsection, all proposed subdivisions shall be drained by Storm Sewers designed and installed in or at the proposed right-of-way. These installed Storm Sewers shall become Public Storm Sewers upon complete installation to District standards and acceptance by the District.

Storm Sewers in proposed subdivisions shall be designed to provide accessibility and Storm Sewer capacity for upstream properties.

An easement and title form, furnished by the Division of Sewerage Management, conveying to the County of Erie the required easements and titles for the planned Public Storm Sewers shall be completed and submitted to the Division of Sewerage Management before final approval of plans.

- 4.03 Public Storm Sewer Extensions – Other Than Subdivisions - Persons may apply to the Board to allow the extension of Public Storm Sewers where such extension is not part of a new Subdivision plan.

The design, easement and title, construction, inspection, and acceptance requirements shall be as provided in Sections 4.01 & 4.02.

The Person applying shall provide an Engineer's Report, including drainage calculations and three sets of construction plans showing the proposed Storm Sewer and related facilities. Provided however the Board may for good cause, on a case by case basis, waive the requirement for an Engineer's Report and drainage calculation. The Board shall in each case of a waiver, indicate the reason thereof.

The Board upon finding that the proposal is feasible, and finding that the requirements of this section have been met, may authorize the Public Storm Sewer extension to be installed and specify the size and location thereof.

The Person making application under this Section, may also petition the Board in writing for financial assistance in extending the Public Storm Sewers. The petition shall demonstrate to the Board that the Public Storm Sewer extension will benefit other Premises within the District.

The District may, in consideration of the benefit to the District as a whole, supply a portion of the Public Storm Sewer at the District's expense in an amount not to exceed the budgetary amount available and determined in the following manner:

The District may provide pipe, drainage inlets and manhole materials for the proposed Storm Sewer System, or may pay up to the cost of the pipe required to be installed to allow for future extension.

If the Board grants the petition, the applicant shall, before proceeding with construction, provide financial security in a form suitable to the District such as, but not limited to, a certified check payable to Erie County in an amount equal to the cost of materials supplied by the District. In the event the materials supplied by the District are lost or rendered unusable by reason of the applicant's action or inaction, the security supplied by the applicant shall be forfeit. Reimbursement by the District will be made only upon satisfactory completion of the Storm Sewer installation.

Insurance, naming the County as insured, shall be supplied in a form acceptable to the County Attorney's Office prior to commencement of any work on any proposed Storm Sewers installation for which the District supplies materials.

- 4.04 Posting of Maintenance Bonds - Any Person installing an extension to a District Storm Sewer or a Storm Sewer system within or as part of a Subdivision, shall post a maintenance bond with the County of Erie, guaranteeing the system for a period of two (2) years from the time of acceptance by the Division of Sewerage Management. During this period, any defects in the system shall be corrected at the expense of said Person. The maintenance bond shall be in an amount equal to 25% of the cost of construction of the system.

Public Storm Sewer extensions installed under Section 4.03 shall post a maintenance bond for that portion supplied by the District when specifically required by the Board.

## **ARTICLE V - CONSTRUCTION SPECIFICATIONS**

- 5.01 Construction Specifications for Erie County Sewer Districts - Storm Sewers and related facilities and appurtenances shall be constructed in accordance with the standard list of materials, specifications and standard details of construction as set forth in the Storm Sewer Construction Specifications for Erie County Sewer Districts prepared by and available from the Erie County Department of Environment and Planning, Division of Sewerage Management, and as they may be revised.

## **ARTICLE VI - POLLUTION CONTROL**

6.01 Storm Water Discharges - No Person shall introduce or cause to be introduced into the Storm Sewer System either directly or indirectly any substance of any nature which causes or can be expected to cause a restriction or blockage of the flow carrying capacity of the Storm Sewer System or which causes or can be expected to cause a hazard, pollution, violation of The Act or violation of New York State laws or water quality standards.

The substances prohibited from discharge into the District's Storm Sewer System include but are not limited to:

- a. Ignitable or flammable substance(s) which by reason of their nature or quantity are, or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the Storm Sewer System. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides and any other substance which is a fire hazard or a hazard to the Storm Sewer System;
- b. Any toxic waste, pollutant or poisonous solid, liquid, or gas either singly or which by interaction with other substances, constitutes a hazard to humans, animals, the environment, causes a public nuisance, or causes any hazardous or toxic effects;
- c. Any noxious or malodorous liquid, gas, or solid which either singly or by interaction with other substances is sufficient to create a public nuisance, cause acute or chronic health or safety problems or prevents entry into the Storm Sewer System for maintenance and repair;
- d. Sanitary Sewage or Industrial Wastes;
- e. Solids and solid substances, or viscous substances, which cause or may be expected to cause obstruction to the flow in the Storm Sewer System, such as, but not limited to: soil, silt, yard wastes, ashes, cinders, sand, cement, concrete stone, mud, metals, glass, plastics, wood, shavings, construction debris, rags, waste paper, grass clippings, wood, brush, straw, hair, hides or fleshings, feathers, entrails, animal remains, bones, tar, asphalt residues, food wastes or garbage;
- f. Fuel, lubricating oils or antifreeze;
- g. Oil, grease or any substance which may precipitate, solidify, congeal, or become viscous;
- h. Discolorations, such as, but not limited to, dye water and vegetable tanning solution;
- i. Cleaning materials, surfactants, soaps, detergents or foaming substances;
- j. Livestock or other animal wastes;
- k. Water or wastes having a ph lower than 6.5 or higher than 8.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment or maintenance personnel of the Storm Sewer System;

- l. All discharges at temperatures that exceed 104 degrees Fahrenheit (40 degrees Celsius);
- m. Any radioactive pollutant(s) or substance(s), or any radioactive isotope of half-life or concentration exceeding limits established by state or federal laws or regulations; or
- n. Any trucked or hauled liquid or solid.

## **ARTICLE VII - UNPERMITTED OR ACCIDENTAL SPILLS**

- 7.01 Spill Notification Requirements and Procedures - In cases of any unpermitted or accidental discharge of prohibited substances to the Storm Sewer system, it is the responsibility of the User or other Person causing or allowing such unpermitted or accidental discharge to immediately notify the District of the discharge. The notification shall include the location, type, concentration and estimated amount of material discharged, and corrective actions planned and taken.

The responsible User or other Person shall within five (5) days of the unpermitted discharge or other prohibited discharge, submit to the District a detailed written report describing the cause of the discharge and measures taken or to be taken to prevent future occurrences. Compliance with this section shall not relieve the User or other Person of any notifications required by State or Federal laws, or regulations, or from any fines, civil penalties, or other liability which may be imposed by these Rules and Regulations or other applicable laws.

## **ARTICLE VIII - POWERS AND AUTHORITY**

- 8.01 District Representatives and Inspectors - Authorized representatives of the District, bearing proper identification, shall be permitted to enter upon all Premises in the District and contracting tributary areas which are served by the Storm Sewer System for the purpose of inspection, observation, records examination and copying, measurement, sampling and testing and the performance of any additional duties relative to the Use or connection to the Storm Sewer System, in accordance with the provisions of these Rules and Regulations. Such access shall be provided during normal business hours Monday through Friday excluding holidays upon reasonable notification to the owner, User, their employees, security personnel or representative. Unreasonable delays or denial in allowing access to the User's Premises shall be a violation of these Rules and Regulations.

In the event the District has reasonable cause to suspect that a violation exists, the District personnel shall be granted access upon so informing the owner, User, their employees, security personnel or representative that there is a suspected violation. In the event access is denied, or otherwise prevented, the District may seek a warrant from a court of competent jurisdiction to enter such Premises. Pursuing a warrant to enter a Premises shall not limit the application of other remedies under these Rules and Regulations.

## **ARTICLE IX - ENFORCEMENT**

- 9.01 Notice of Violation - When the District finds or has reasonable information and belief that a User or other Person has violated or is violating any provision of these Rules and Regulations or an order issued hereunder, or any other requirement of these Rules and Regulations, the District may serve upon that User or other Person a written Notice of Violation. The User or other Person shall correct or eliminate the violation as soon as possible upon receipt of the Notice of Violation. Within twenty (20) days of the receipt of such Notice of Violation, the User or other Person shall submit to the District a written explanation of the cause of the violation and, if not corrected or eliminated, a plan and schedule for the correction and prevention thereof. The plan and schedule are subject to approval by the District. Submission of this explanation and plan in no way relieves the User or other Person of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the District to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.
- 9.02 Consent Stipulation - The Board may enter into a Consent Stipulation whereby a User agrees to voluntary compliance in lieu of further enforcement for noncompliance. Such Consent Stipulation shall include specific actions to be taken by the User to correct the noncompliance within time periods specified. Such Consent Stipulation shall have the same force and effect as a Compliance Order issued pursuant to these Rules and Regulations and shall be judicially enforceable.
- 9.03 Enforcement Hearing - Whenever it shall appear that there has been a violation of any provision of these Rules and Regulations, the Board may cause a hearing to be held. If a User or other Person is not the Premises owner, the Board may bring an enforcement action against either or both parties. The alleged violator(s) shall be served a Notice of Hearing at least twenty (20) days prior to the day specified for the hearing. The notice shall state the time and place designated for the holding of the hearing and particulars of the violation(s) charged.
- 9.04 Hearing Procedures - At the time of holding the hearing the alleged violator may be represented by legal counsel. All parties may present evidence, offer testimony, examine and cross examine witnesses and submit arguments and briefs. Failure to appear or to produce evidence or information relative to the alleged violation may be presumed an admission of the alleged violation.

The Board may, in lieu of conducting the hearing itself, appoint a hearing officer to conduct the hearing.

The Board shall determine if violation(s) have occurred based upon its own investigation as well as the evidence, statements and information presented at the hearing, and upon the hearing officer's report and recommendation where a hearing officer has been appointed.

- 9.05 Hearing Findings - Upon finding that a violation occurred the Board may levy a premium assessment for such violation. Where the Board finds that violations are continuing, or can be reasonably expected to continue, the Board may in addition to or in lieu of a premium assessment, issue a Compliance Order to the User or other Person requiring that the User or other Person come into compliance within a specified time frame, with milestones dates; or the Board may issue a Cease and Desist Order to the User or other Person directing the User or

other Person to take such appropriate remedial or preventive action as may be needed to halt or prevent continuing or threatened violations.

The Board may enforce these Rules and Regulations by stipulation, agreed settlement, consent order or other conciliation agreements.

A Compliance Order or Cease and Desist Order does not relieve the User or other Person of liability for any violation, including any continuing violation. The levy of a premium assessment or issuance of a Compliance Order or Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the User or other Person.

- 9.06 Emergency Suspensions - The District may suspend a User's right to discharge whenever the District deems such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of Persons or the environment. In case of such an emergency suspension, the District shall attempt to provide reasonable advance notice to the User to correct the threatening discharge.

Any User notified of a suspension of its discharge shall immediately stop or eliminate the discharge. In the event of a User's failure to immediately comply voluntarily with the suspension notice, the District may take such steps as deemed necessary including immediate severance of the causative Storm Sewer connection to prevent or minimize endangerment to any Persons or the environment.

The District may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the District that the period of endangerment has passed, unless the revocation proceedings of these Rules and Regulations are initiated against the User.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section.

- 9.07 Revocation of a Storm Sewer Connection Permit - The Board may revoke permission to connect to the Public Storm Sewer System after a hearing held pursuant to these Rules and Regulations.

Any User who violates any of the following conditions may be subject to revocation of its Permit:

- a. Violation of these Rules and Regulations which the Board has determined warrants revocation;
- b. Violation of a Permit where the Board determines that future compliance cannot be expected to occur;
- c. Failure to accurately report the characteristics of its discharge;
- d. Failure to report significant changes in drainage conditions, Storm Sewer connections or Peak Flow controls;

- e. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring or sampling;
- f. Falsification of data or information required or related to compliance; or
- g. Failure to pay sewer charges or premium assessments within ninety (90) days from the District's notice requesting payment of amounts past due.

Any User whose permit has been revoked shall immediately cease the discharge(s) covered by the permit revocation order. The Board may order the discharge line(s), that are in violation disconnected or blocked from the Public Storm Sewer to insure compliance with the revocation order.

The Board may authorize the issuance of a new permit for the revoked permit location upon proof of satisfactory compliance with all requirements of these Rules and Regulations and receipt of a new application and payment of all fees and premium assessments. Costs incurred by the Board in revoking the permit and disconnecting or blocking the discharge shall also be paid by the applicant before a new permit can be issued.

## **ARTICLE X - PENALTIES**

- 10.01 Premium Assessment - Violations of these Rules and Regulations will be subject to a premium assessment not to exceed a maximum of one thousand dollars (\$1000) for each violation.

In determining the amount of the premium assessments the Board may consider factors such as, but not limited to, the nature of the violation, the magnitude of impact of the violation on human health, property, the environment and/or Storm Sewer System operation, the User's past violation record, and other relevant factors.

Each day a violation exists shall constitute a separate violation. A day shall be a twenty-four hour period beginning at 12:01 AM and ending on the following 12:01 AM.

## **ARTICLE XI - LIABILITY**

- 11.01 General - Any Person violating any of the provisions of these Rules and Regulations shall become liable to the District for any expense, loss or damage occasioned the District by reason of such violation.

In addition, if the NYSDEC and/or USEPA fines the Sewer District as the result of any Person violating any of the provisions of these Rules and Regulations, the fine shall be passed on to the responsible Person.

- 11.02 Excessive Storm Sewer System Maintenance and/or Repair Expense - Any User or other Person who introduces, permits the introduction of, or causes the introduction of, a prohibited substance into the Public Storm Sewer which creates a stoppage, plugging, reduction in Storm Sewer capacity or any other damage to a Public Storm Sewer or which causes pollution or environmental damage shall be liable for any resulting additional maintenance and/or repair

expenses in addition to any other penalties and/or remedies contained in these Rules and Regulations.

Any User or other Person who causes breakage, stoppage, plugging, improper connection into, removal or disturbance of covers, reduction in Storm Sewer capacity or any other damage to a Public Storm Sewer or causes pollution or environmental damage shall be liable for the resulting additional maintenance and/or repair expense in addition to any other penalties and/or remedies contained in these Rules and Regulations.

Expenses attributable thereto will be charged to that User or other Person.

Refusal to pay the additional maintenance and/or repair expenses duly determined and levied by the Board shall constitute a violation of these Rules and Regulations.

- 11.03 Legal Action - Nothing in this article shall be construed to limit the right of the Board to enforce, or avail themselves to the benefits of any and all other applicable laws and ordinances, including injunctive relief.

When the Board finds that a User or other Person has violated, or continues to violate, any provision of these Rules and Regulations, an Order issued hereunder, or any other requirement of these Rules and Regulations, the Board may petition to a Court of competent jurisdiction, through the County Attorney's Office for the issuance of a temporary or permanent injunction. The Board may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the responsible User or other Person to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action including but not limited to seeking specific performance or assessing civil penalties against a User or other Person.

## **ARTICLE XII - SPECIAL STORM SEWER CHARGES**

- 12.01 Fee for Permit and Inspection Charges - Each applicant for a Permit to connect or modify the Public Storm Sewer System shall pay a fee for the permit and applicable Inspection charges. The amount of the fee and Inspection charges shall be determined by the Board and will be posted in the District office. The fee and Inspection charges shall be paid at the time the permit is issued.
- 12.02 Unpaid Storm Sewer Charges - Payment of Sewer charges are due within thirty (30) days of invoice. Unpaid Sewer charges including premium assessments shall become a lien upon the premises for which, or in connection with which, Sewer services were provided as and from the first day fixed for payment of such charges. Interest shall be due and payable as in the same manner as other County taxes.

## **ARTICLE XIII - SAVING CLAUSE**

- 13.01 Validity - The invalidity of any section, clause, sentence or provision of these Rules and Regulations shall not affect the validity of any other part of these Rules and Regulations which can be given effect without such invalid part or parts.

## **ARTICLE XIV - ADOPTION**

14.01 Rules and Regulations in Force - These Rules and Regulations shall be in full force and effect upon their adoption as provided by law.

Adopted by the Erie County Legislature at the 25th session on December 12, 2002 being Committee Reference 20E-53.

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